



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG-2022-0611]

RIN 1625-AA08

### Eleventh Coast Guard District Annual Marine Events; Northern California and Lake Tahoe, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard is proposing to update the list of marine events occurring annually within the Eleventh Coast Guard District, specifically within the San Francisco Captain of the Port (COTP) zone. This rule would enable vessel movement restrictions in the regulated area when the special local regulations are activated and enforced. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2022-0611 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LT Anthony Solares, Sector San Francisco, U.S. Coast Guard; telephone 415-399-3585, email [SFWaterways@uscg.mil](mailto:SFWaterways@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background, Purpose, and Legal Basis**

The Coast Guard regularly updates the regulations for recurring special local regulations within the Eleventh Coast Guard District listed in 33 CFR 100.1103. These recurring special local regulations are for marine events that take place either on or over the navigable waters of the Eleventh Coast Guard District as defined at 33 CFR 3.55-1. These regulations were last amended February 13, 2020 (85 FR 8169).

### **III. Discussion of Proposed Rule**

The Coast Guard is proposing to add two events to table 1 to 33 CFR 100.1103, the Sacramento Ironman Swim, which typically occurs on a Sunday in October, and the Escape from Alcatraz Swim, which typically occurs one weekend in June. Unauthorized persons or vessels would be prevented from entering into, transiting through, or remaining in the regulated areas without the permission of the Captain of the Port San Francisco or a designated representative during the events. These regulations are needed to keep spectators and vessels a safe distance away from the specified events to ensure the safety of participants, spectators, and transiting vessels. We would publish notices of enforcements in the Federal Register announcing the specific enforcement dates and times before the reoccurring annual events.

We are also proposing small, technical changes to correct minor scrivener's errors in the current text.

The regulatory text we are proposing, which includes details for the location of these events, appears at the end of this document. We also included maps showing the

general locations of the Sacramento Ironman Swim event and the Escape from Alcatraz Swim event in the docket USCG-2022-0611.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and location of the regulated areas. The effect of this rule will not be significant because vessel traffic can either pass safely around these areas, regardless of size, or this rule will encompass only a small portion of the waterway for a short duration. Vessels will also be able to request permission from the COTP to transit through the regulated areas.

##### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order

13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves revision of 33 CFR 100.1103. The proposed additions to table 1 of 33 CFR 100.1103 will capture recurring marine events in the San Francisco Captain of the Port (COTP) zone. The revised regulation will prevent unauthorized persons or vessels from entering into, transiting through, or remaining in the regulated areas without the permission of the Captain of the Port San Francisco or a designated representative.

Normally such actions are categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2022-0611 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule

as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 100**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Revise and republish §100.1103 to read as follows:

#### **§ 100.1103 Northern California and Lake Tahoe area annual marine events.**

(a) *General.* Special local regulations are established for the events listed in table 1 of this section. Notice of implementation of these special local regulations will be made by publication in the *FEDERAL REGISTER* 30 days prior to the event for those events without specific dates or by Notice to Mariners 20 days prior to the event for those events listing a period for which a firm date is identifiable. In all cases, further information on

exact dates, times, and other details concerning the number and type of participants and an exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list for Local Notice to Mariners contact: Commander (dpw), Eleventh Coast Guard District, Coast Guard Island, Building 50-2, Alameda, CA 94501-5100. *Note:* Sponsors of events listed in table 1 of this section must submit an application each year as required by 33 CFR part 100, subpart A, to the cognizant Coast Guard Sector Commander. Sponsors are informed that ample lead time is required to inform all Federal, state, local agencies, and other interested parties and to provide the sponsor the best support to ensure the safety of life and property.

(b) *Special local regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The “official patrol” consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the regulated areas during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed or signaled by an official patrol vessel, any spectator located within a regulated area during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol



vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. The PATCOM may be reached on VHF-FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 100.1103

[ALL COORDINATE REFERENCED USE DATUM NAD 83]

1. Blessing of the Fleet	
Sponsor	Corinthian Yacht Club.
Event Description	Boat parade during which vessels pass by a pre-designated platform or vessel.
Date	Last Sunday in April.
Location	San Francisco Waterfront to South Tower of Golden Gate Bridge.
Regulated Area	The area between a line drawn from Bluff Point on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and a line drawn from Peninsula Point to the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.
2. Opening Day on San Francisco Bay	
Sponsor	Pacific Inter-Club Yacht Association and Corinthian Yacht Club.
Event Description	Boat parade during which vessels pass by a pre-designated platform or vessel.
Date	Last Sunday in April.
Location	San Francisco, CA waterfront: Crissy Field to Pier 39.
Regulated Area	The area defined by a line drawn from Fort Point; thence easterly approximately 5,000 yards; thence easterly to the Blossom Rock Bell Buoy; thence westerly to the Northeast corner of Pier 39; thence returning along the shoreline to the point of origin.
	Special Requirements: All vessels entering the regulated area shall

	follow the parade route established by the sponsor and be capable of maintaining an approximate speed of 6 knots.
	Commercial Vessel Traffic Allowances: The parade will be interrupted, as necessary, to permit the passage of commercial vessel traffic. Commercial traffic must cross the parade route at a no-wake speed and perpendicular to the parade route.
3. Delta Thunder Powerboat Race	
Sponsor	Pacific Offshore Power Racing Association.
Event Description	Professional high-speed powerboat race.
Date	Second Saturday, Sunday in September.
Location	Off Pittsburgh, CA in the waters around Winter Island and Browns Island.
Regulated Area	The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.
4. Pittsburg Seafood Festival Air Show	
Sponsor	City of Pittsburg, CA.
Event Description	Pittsburg Seafood Festival Air Show.
Date	Second Saturday, Sunday in September.
Location	Off Pittsburg, CA in the waters around Winter Island and Browns Island.
Regulated Area	The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.

5. Sacramento Ironman Swim	
Sponsor	IRONMAN Group.
Event Description	Swim portion of the Sacramento Ironman Triathlon.
Date	A Sunday in October.
Location	Waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.
Regulated Area	For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.
6. Escape From Alcatraz Swim	
Sponsor	Action Sports Events IMG.
Event Description	Escape From Alcatraz Swim. An approximate 750 meter swim that will originate from a boat located in the San Francisco Bay.
Date	A weekend day in June.
Location	Waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.
Regulated Area	For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.

Dated: August 19, 2022

Jordan M. Baldueza  
Captain, U.S. Coast Guard,  
Alternate Captain of the Port San Francisco.